

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO. 3503/2016

(SURESH VISHNUPANT KALE **VERSUS** THE STATE OF MAHARASHTRA & OTHERS)

Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Ms B.A. Kale and Shri A.V. Kale, counsel for the petitioner.
 Shri D.P. Thakare, Additional G.P. for the R-1 & 2.

CORAM : SMT.VASANTI A. NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : JULY 08, 2016.

By this writ petition, the petitioner seeks a direction against the respondent no.2-Divisional Commissioner, Amravati to assess the loss incurred by the petitioner to the Banana plantation in the field of the petitioner. The petitioner also seeks a direction against the respondent no.1-State of Maharashtra to conduct an enquiry committee of the officials mentioned in prayer clause (b) of the petition so as to take action against the erring officers, who failed to release the water from the dam, in the river.

The petitioner claims to be the owner and possessor of the agricultural land in village Varna. The field of the petitioner is said to be situated on the bank of Gyanganga river. It is the case of the petitioner, that there is a dam constructed at a distance of twelve kilometers and the water from the dam is released in the river. It is stated that though there is availability of ample water in the dam, the same was not released in the river, resulting in lack of water supply to the fields, that are located near the riverbed. According to the petitioner, since the water was not released in the river, the well in the petitioner's field as well as the wells in the fields of other villagers, went dry, thereby resulting in damage to the Banana plantation.

According to the petitioner, the petitioner has incurred a loss of Rs.4,00,000/- and a direction should be issued to the respondents to pay the compensation to the petitioner to the tune of Rs.4,00,000/-. It is stated that an enquiry committee of officials mentioned in prayer clause (b) of the petition, should be constituted to fasten the liability on the persons, who were responsible for not releasing the water from the dam, in the river.

We are afraid, the relief sought by the petitioner cannot be granted in exercise of the writ jurisdiction. The claim of the petitioner is based on several facts that are disputed and complicated. It would be necessary for the petitioner to file a civil suit, if the petitioner is interested in seeking compensation for the loss caused to the Banana Plantation in the field of the petitioner. The issues involved in this writ petition cannot be decided in exercise of the writ jurisdiction. The judgment reported in **1996(9) Scale 298** (*Shri D.K. Basu Versus State of West Bengal*) and relied on by the counsel for the petitioner has no applicability, whatsoever, to the facts of the case.

In the circumstances of the case, we dismiss the writ petition with no order as to costs.

The points raised in the petition are, however kept open.

JUDGE

JUDGE